

**SPECIAL RATE AGREEMENT**  
**between**  
**Bangor Hydro-Electric Company and Lincoln Pulp & Paper Co., Inc.**

This is a Special Rate Agreement (the “Agreement”) made June 27, 2001 between LINCOLN PULP & PAPER CO., INC., a corporation incorporated under the laws of the State of Delaware, having its principal office at the Town of Amherst, Commonwealth of Massachusetts, and having a place of business at Lincoln, Maine (hereinafter referred to as “Lincoln”) and BANGOR HYDRO-ELECTRIC COMPANY, a public utility incorporated under the laws of the State of Maine, having a principal office at 33 State Street, City of Bangor, State of Maine (hereinafter referred to as “BHE”). BHE and Lincoln may be collectively referred to as the “Parties.”

WHEREAS, BHE currently provides Lincoln with transmission and distribution service (“Delivery Service”) to Lincoln’s facility located within BHE’s service territory at 50 Katahdin Avenue, Lincoln ME 04457 (the “Facility”) pursuant to the terms of the Power Sales Agreement between BHE and Lincoln dated December 31, 1996 and as amended by a Letter Agreement dated February 21, 1997 and Amendment No. 2 to Power Sales Agreement dated June 9, 2000 (collectively referred to as the “Original Agreement”);

WHEREAS, as a result of changes in the electric energy industry and resulting regulatory uncertainty regarding the continued validity of the Original Agreement, the Parties wish to terminate the Original Agreement and to enter into a new Special Rate Agreement for Delivery Service;

WHEREAS, BHE and Lincoln (“the parties”) agree that Lincoln has reasonably demonstrated that it will cease or drastically reduce its purchases from BHE but for the availability of Delivery Service under the terms contained herein and BHE’s credit guarantee as provided in this Agreement; and

WHEREAS, discounted Delivery Service and BHE’s credit guarantee as provided under the terms and conditions expressed and agreed to herein will induce Lincoln to remain a BHE customer, thus providing a contribution to BHE’s fixed costs to the benefit of BHE’s other customers:

NOW, THEREFORE, in consideration of the mutual promises contained herein, the sufficiency of which is hereby acknowledged, the Parties hereby agree as follows:

**1. Definitions.**

a. Delivery Service: means the transmission and distribution of Lincoln’s Generation Service from the point of receipt by BHE to BHE’s interconnection point with Lincoln, including metering and customer services, and contribution to fixed costs.

b. Generation Service: means all of Lincoln’s requirements for generation supply including but not limited to electrical energy, electrical capacity, and ancillary electrical services at its Facility, unless otherwise specified in this Agreement.

**2. Termination of Original Agreement.** The Original Agreement is rescinded and cancelled as of the Effective Date, as defined below in Section 4, of this Agreement.

**3. Delivery Service.** BHE shall provide and Lincoln shall purchase Delivery Service for the Facility, except for energy generated by any self-generation installed at the Facility as of the Effective Date of this Agreement. Bangor Hydro shall provide Delivery Service at a mutually acceptable voltage level in the form of 3-phase, 60 Hertz, alternating current electricity. Bangor Hydro shall at its own expense build, erect and maintain the poles, wires and other electric equipment necessary to enable Bangor Hydro to provide Lincoln's Delivery Service.

**4. Effective Date and Term.** The effective date of this Agreement shall be July 1, 2001 (the "Effective Date") and shall terminate at 11:59:59 p.m. on March 31, 2006 (the "Term") unless terminated earlier as provided below in Section 5.

**5. Self-Generation Limitations.** Lincoln may employ existing or new self-generation at the Facility provided that the installation of new self-generation or retrofitting or reconditioning of existing self-generation shall not be the cause for a reduction, in any calendar year during the term of this Agreement, in the purchase of Delivery Service below Lincoln's average annual kWh usage from the previous three years (1998-2000). If such reduction does occur, BHE may terminate this Agreement upon written notice to Lincoln.

**6. Price and Payment Terms for Delivery Service.** BHE agrees to sell and Lincoln agrees to purchase Delivery Service for the Facility in accordance with the following terms.

a. Price for Initial Period. For the period between July 1, 2001 through March 31, 2002 (the “Initial Period”), Lincoln agrees to purchase its Generation Service and its Delivery Service at a bundled rate of 6.0¢/kWh (the “Bundled Rate”). BHE shall arrange for Generation Service to be provided to Lincoln by a competitive energy provider (“CEP”), and Lincoln shall execute a Generation Service Contract with the identified CEP. To the extent the actual cost of electrical energy generation service acquired by BHE to serve Lincoln’s Generation Service is less than 6.0¢/kWh, the difference between the Bundled Rate and such actual cost shall accrue to BHE as payment for Delivery Service.

b. Price for Second Period. For the period April 1, 2002 through March 31, 2006 (“Second Period”), Lincoln agrees to pay the following:

(i) kWh Charge: Lincoln shall pay BHE for Delivery Service a rate as determined in accordance with the price index attach hereto as Appendix A, provided that at no time shall the kWh rate be less than BHE’s Open Access Transmission Tariff; and

(ii) Additional Payment: To the extent that Lincoln’s average annual per kWh cost for Lincoln’s Generation Service and Delivery Service under Section 6(b)(i) above, is less than 6.2¢/kWh, then Lincoln and BHE shall share on the basis of 60% to BHE and 40% to Lincoln, in an amount determined annually, the product of (a) Lincoln’s total kWh usage for that year multiplied by (b) the difference between 6.2¢/kWh and the sum of the average per kWh cost of Generation Service to Lincoln and the Delivery Service rate determined pursuant to Section 6(b)(i) above.

c. Payments. For the Initial Period, Lincoln shall make payments for Delivery Service by electronic fund transfer (“EFT”) as follows: (i) on the 15<sup>th</sup> of every month BHE shall invoice Lincoln for one half of the previous month’s total cost of Delivery Service and Lincoln shall pay BHE the invoiced amount within three (3) business days after Lincoln’s receipt of invoice; and (ii) within three (3) business days of Lincoln’s receipt of an invoice by BHE to Lincoln immediately after Lincoln’s monthly meter read date, Lincoln shall pay BHE the invoiced amount. If, during the Second Period, Lincoln either (i) remains subject to the jurisdiction of the U.S. Bankruptcy Court or (ii) elects to have BHE provide an unconditional guaranty and/or take or pay provision for Generation Service, pursuant to Section 7 below, the above payment process shall apply for Delivery Services. If, during the Second Period, Lincoln neither (i) elects to have BHE provide an unconditional credit guaranty and/or take or pay provision for Generation Service pursuant to Section 7 below nor (ii) is subject to the jurisdiction of the U.S. Bankruptcy Court, Lincoln shall make payments for Delivery Service in accordance with applicable BHE tariffs and MPUC rules.

d. Failure to Make Payments. If at any time during the Term of this Agreement Lincoln fails to make timely payments of any amounts due in accordance with the terms set forth in this Section, the price for Delivery Service supplied to Lincoln after such failure shall be determined under BHE’s applicable rate schedule, as amended from time to time, as approved by the MPUC and BHE shall have the right to temporarily or permanently suspend Delivery Service to Customer after at least seven (7) days notice as specified in Section 4(a) of Ch 860 of the MPUC rules.

**7. Credit Guaranty:**

a. On April 1, 2002 and on April 1 of each year for three years thereafter, Lincoln shall have the option of seeking one-year Generation Service contracts for which BHE will serve as the credit guarantor. Upon the request of Lincoln, BHE will provide an unconditional credit guaranty and a take or pay provision for any one-year Generation Service agreement for any applicable year. The take or pay provision shall provide that if Lincoln ceases regular commercial operations at the Facility, BHE shall be required to either purchase the amount of energy from the CEP that would have been purchased by Lincoln for any period remaining under the 1 year generation service agreement or, in the alternative, pay the supplier an agreed amount to compensate the supplier for the loss of Lincoln's remaining purchases under such generation service agreement. The Parties shall draft a form of such credit guaranty and take or pay provision within ninety (90) days of execution of this Agreement and such form shall be incorporated as part of this Agreement. If the Parties are unable to agree upon such form, the Parties shall submit the issue to the MPUC and the Parties shall be bound by the terms imposed by the MPUC. If Lincoln elects to exercise this option Lincoln shall notify BHE of its election no later than March 20<sup>th</sup> of the calendar year in which each one-year contract would be initiated.

b. If Lincoln invokes BHE's credit guaranty and/or the take or pay provision, Lincoln must contract with the lowest cost provider that submits a bid to Lincoln for the year in question. Lincoln acknowledges that any affiliated competitive energy provider of BHE shall be provided the opportunity to submit such a bid. Lincoln shall notify BHE of any request for bids at such time as Lincoln notifies competitive electricity providers but at least two weeks prior to

the bid deadline. In the event that BHE determines that Lincoln has not exercised due diligence in acquiring the lowest cost generation service contract, BHE may petition the MPUC to make a determination as to whether Lincoln has fulfilled this term of the contract. Lincoln and BHE agree to be bound by the decision of the MPUC. If the MPUC finds that Lincoln failed to exercise due diligence BHE shall be compensated for any direct and consequential damages, and any dispute regarding damages shall be subsequently determined by a court of law.

c. During the Initial Period and any time during the Second Period of this Agreement during which Lincoln invokes the unconditional credit guaranty and/or the take or pay provision for Generation Service, Lincoln will make payments by EFT to BHE, as billing agent for Lincoln's generation service provider, for generation service under a payment arrangement similar to that in Section 6(c) above.

**8. Cross-default.** A default in any payment by Lincoln under any Generation Service contract guaranteed by BHE shall constitute an event of default in the payment for Delivery Service and BHE will have all available legal remedies to collect any past due amount as if any default in the payment for generation services was a default in the payment of Delivery Services.

**9. Approvals.**

a. MPUC Approval. This Agreement is contingent on the issuance of an Order by the Maine Public Utilities Commission ("MPUC") which (i) unconditionally approves the Agreement pursuant to 35-A M.R.S.A. §703(3-A); (ii) waives any penalty under Chapter 301, §2(C)(2)(c) to Lincoln for opting out of Standard Offer Service; and (iii) waives the 48 hour

requirement for notice to transfer out of Standard Offer Service pursuant to Chapter 301, §2(D)(4).

b. Bankruptcy Court Approval. This Agreement is contingent on issuance of an order by the federal bankruptcy court authorizing Lincoln to execute the Agreement, the terms of said order to be acceptable to both parties.

c. Effect. If the above-described approvals are not obtained by the close of business on June 28, 2001, this Agreement is null and void.

**11. Force Majeure.** Neither party shall be liable to the other for failure to perform when such failure is due to any cause beyond the control and without the fault or negligence of the non-performing party (“Force Majeure”); provided, however, that the non-performing party shall have used its best efforts to remedy the situation, and rendered to the other party prompt written notice when it appears that such cause will result in non-performance under this Agreement. Economic hardship of either party shall not constitute a Force Majeure under this Agreement.

**12. Good Faith.** In addition to all other responsibilities of each party to this Agreement set forth above, BHE and Lincoln hereby agree that this Agreement imposes an obligation on each party of good faith in its performance or enforcement. For this purpose, “good faith” means honesty in fact and the observance of reasonable standards of fair dealing.

**13. Rights/Duties of the Parties.** To the extent not inconsistent with the express terms of this Agreement, BHE’s formal Terms and Conditions of service approved by the MPUC, as amended from time to time, and any applicable terms and conditions of FERC, ISO-NE or any



other similar entity, are hereby incorporated by reference and pursuant to which Lincoln, as a customer of BHE shall have all the corresponding rights and obligations.

14. **Assignability.**

a. This Agreement may be assigned by Lincoln to any successor operator of its Facility only with the prior consent of BHE, which consent shall not be unreasonably withheld. Upon any such assignment, Lincoln shall be released of any further obligation hereunder (other than in respect of services theretofore delivered to Lincoln). No consent shall be required with respect to the merger of Lincoln with Eastern Pulp & Paper Corporation, a Massachusetts corporation, presently the owner of all of the issued and outstanding stock of Lincoln.

b. This agreement may be assigned by BHE to any successor corporation engaged in the business of selling transmission and distribution services only with the prior consent of Lincoln, which consent shall not be unreasonably withheld. Upon any such assignment, BHE shall be released of any further obligation hereunder.

15. **Representation and Warranties.**

a. BHE represents and warrants that it is a corporation duly organized, validly existing and in good standing under the laws of the State of Maine and has all requisite corporate power and authority to carry on its business as presently conducted and to enter into this Agreement and that the execution and delivery of this Agreement and the performance of its obligations hereunder have been duly authorized by all necessary corporate action.

b. Lincoln represents and warrants that it is a corporation duly organized, validly existing and in good standing under the laws of the State of Delaware and has all requisite corporate power and authority to carry on its business as presently conducted and to enter into this Agreement and that the execution and delivery of this Agreement and the performance of its obligations hereunder have been duly authorized by all necessary corporate action.

**16. Notices.** All notices required to be given hereunder shall be given in writing by registered or certified mail, return receipt requested; by overnight delivery service; by facsimile followed by overnight delivery; or by hand securing a receipt therefor and shall be addressed as follows:

To Lincoln: Lincoln Pulp & Paper Co., Inc.  
100 University Drive  
Amherst, MA 01002  
Attention: Joseph H. Torras

Cc: Anthony W. Buxton, Esq.  
Preti, Flaherty, Beliveau, Pachios & Haley  
45 Memorial Circle  
P.O. Box 1058  
Augusta, ME 04332-1058

To BHE: Bangor Hydro-Electric Company  
33 State Street  
Bangor, ME 04402  
Attention: Senior Vice President and COO

**17. Severability.** The invalidity or unenforceability of any term or provision of this Agreement by the application of such term or provision to any person or circumstance shall not impair or affect the remainder of this Agreement, and its application to other persons and circumstances and the remaining terms and provisions hereof shall not be invalidated but shall remain in full force and effect.

**18. Miscellaneous.**

a. Entire Agreement. This Agreement embodies the entire Agreement and understanding of the Parties and supersedes any and all other agreements, negotiations, arrangements and understandings, verbal or written, relating to the matters provided for herein; any representations not herein expressly contained with respect to the subject matter of this Agreement shall be of no force and effect.

b. Headings. The headings of the sections and subsections of this Agreement are inserted as a matter of convenience and for reference purposes only and in no respect define, limit or describe the scope of this Agreement or the intent of any section or subsection.

c. Mutually Drafted. The language used in this Agreement shall be deemed to be the language chosen by the parties hereto to express their mutual consent and intent, and this agreement shall not be deemed to have been prepared by any single party.

d. Amendments. No amendment, waiver of compliance with any provision or condition hereof, or consent pursuant to this Agreement will be effective unless evidenced by an instrument in writing signed by the parties.

e. Failure to Enforce. No delay or omission on the part of a party to exercise its rights hereunder shall: (i) impair such right, (ii) be deemed in any way a waiver or be construed

as an estoppel, or (iii) impair any right or remedy of that party arising subsequent to the delay or omission.

f. Governing Law. This Agreement shall be governed by and construed and enforced in accordance with the laws of the State of Maine.

g. Counterparts. This Agreement may be executed in as many counterparts as may be deemed necessary and convenient and each of which shall be deemed an original but all such counterparts shall constitute one and the same instrument.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed as of the date and year first written above.

WITNESS: LINCOLN PULP & PAPER CO., INC.

\_\_\_\_\_ By \_\_\_\_\_  
Joseph H. Torras

WITNESS: BANGOR HYDRO-ELECTRIC COMPANY

\_\_\_\_\_ By \_\_\_\_\_  
Carroll R. Lee  
Senior Vice President and  
Chief Operating Officer